

Abstract - Protection of a forced heir and his disinheritance

The protection of the forced heir has always been perceived as a clash of the will of the descendant and the principle of family cohesion. The objective of my thesis is to describe legal regulation of the forced heir and institutes related to this issue, i.e. their protection and disinheritance not only from the point of view of the current legal regulation according to the Civil Code No. 89/2012 Coll., but also from the point of view of their historical development.

The diploma thesis is structured into four main chapters which are divided into subchapters.

The purpose of the first chapter is to familiarize readers with the issue of inheritance law by defining its basic terms, revealing historical development from the time of Roman law through the ABGB General Civil Code to the modern legislation from 1950 and 1964 and taking account of their impact on the current legal system.

The second chapter deals with the definition of the term of a forced heir, the determination of the size of the right to a forced share based on the age of the descendant, its determination with the possibility of inclusion and the principle for its payment. Furthermore, there are discussed the ways of protecting the rights of the forced heir.

The third chapter deals with the disinheritance itself. I define the term of disinheritance and the range of enumerative reasons for which a forced heir can be deprived of his right to a forced share. At the same time, there are discussed the institutes closely linked with the disinheritance. This is in particular a declaration of disinheritance and its modification in the current legal framework. This chapter concludes with the treatises on new institutes of inheritance law, i.e., the silent and legal disinheritance and so-called negative testament.

The last chapter briefly points out the perception of the forced heirs and reasons why they can be excluded from the right to a forced share in our neighboring countries – Germany and Slovakia.